## UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

ANDREW L. MEEKS,		) 3:12-cv-00322-MMD-WGC	
VS.	Plaintiff,	) MINUTES OF THE COURT	
		) June 19, 2013	
CHERYL BURSON	, et al.,	)	
	Defendants.	)	
		_)	
PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE			
DEPUTY CLERK: KATIE LYNN OGDEN REPORTER: NONE APPEARING			
COUNSEL FOR PLAINTIFF(S): NONE APPEARING			
COUNSEL FOR DEFENDANT(S): NONE APPEARING			

## MINUTE ORDER IN CHAMBERS:

On May 6, 2013, Plaintiff filed a Motion Identifying Unserved Defendants and Request for Issuance of Summons (Doc. # 16), wherein he sought to have summonses issued as to Defendants Jacob Colburn and Correctional Officer Singer. This court's order of May 17, 2013 (Doc. #18), recognized that although Correctional Officer Singer was identified in the body of Plaintiff's complaint, the correctional officer was not named as a defendant in the caption. Plaintiff was advised that if he intended to sue Correctional Officer Singer as a defendant, he should submit a notice to the court (id.).

Plaintiff did not comply with the court's order to file such a notice. However, subsequent to the entry of the order, the Defendants filed their Response to Motion to Identify Unserved Defendants / Supplemental Notice of Acceptance of Service (Doc. # 19) where Defendants stated:

"It appears based on the present motion that Plaintiff intended to list Mr. or Ms. Singer, as a party to the litigation. Assuming this was an inadvertent mistake, the Defendants will not oppose a motion to amend the complaint to include Mr. or Ms. Singer as a Defendant."

*Id* at 2.

## MINUTES OF THE COURT

3:12-cv-00322-MMD-WGC

Date: June 19, 2013

Page 2

Fed. R. Civ. P 15(a)(2) allows an amendment before trial upon leave of court – and that "the court should freely give leave when justice so requires." While Plaintiff's "motion" was not technically a motion to amend his complaint, it might be interpreted as an effort by a *pro se* inmate to correct a mistake. Such pleadings are to liberally construed. *Eldridge v Block*, 832 F. 2d 1132, 1137 (9th Cir 1987); *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). The courts have a duty to ensure *pro se* litigants do not lose a right to a hearing on the merits due to their ignorance of technical procedural requirements. *Balistreri v Pacifica Police Dep't*, 901 F. 2d 696, 699 (9th Cir. 1990).

Inasmuch as Defendants' response (Doc. #19) states the defendants do not object to the amendment of Plaintiff's complaint to include Correctional Officer Singer as a Defendant,

**IT IS HEREBY ORDERED** that the action shall proceed as if Correctional Officer Singer had been identified in the caption as a defendant and the Clerk shall revise the Docket and other court records accordingly.

If counsel for the Defendants accepts service on behalf of Defendant Singer, he shall file an answer to Plaintiff's complaint (Doc. #4) or a joinder to the Defendants' answer (Doc. #13) within **fifteen (15) days** of the date of this order.

If counsel for the Defendants does not intend to represent Defendant Singer, he shall **within fifteen (15) days** file, under seal, the last known address of Correctional Officer Singer.

If service cannot be accepted for Defendant Singer, plaintiff shall file a motion identifying the unserved defendant, requesting issuance of a summons, and specifying a full name and address for the defendant. For the defendant as to which the Attorney General has not provided last-known-address information, plaintiff shall also provide the full name and address for the defendant.

**IT IS FURTHER ORDERED** that Plaintiff's request in Doc. # 16 to have a summons issued as to Defendant Colburn is **DENIED as moot** inasmuch as an appearance has already been entered on his behalf (Doc. # 20).

IT IS SO ORDERED.

LANCE S. WILSON, CLERK

By:	/s/	
Deputy Clerk		